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Comments on behalf of the
Chemical Industry Council of California (CICC)
1025 K St., Suite 46, Sacramento, CA 95814

VIA ELECTRONIC MAIL

December 3, 2004

Dr. John Faust
Senior Toxicologist
Office of Environmental Health
Hazard Assessment
1515 Clay Street, 16th Floor
Oakland, CA 94610
jfaust@oehha.ca.gov

Re: Cal/EPA EJ Action Plan Implementation: CICC's comments regarding the definition of "Multi-media Cumulative Impacts"

Dear Dr. Faust:

The Chemical Industry Council of California (CICC) is a voluntary trade association comprised of large and small chemical manufacturers and distributors throughout California representing 105 facilities, including: 43 manufacturing plants, five research labs, and 67 sales, service and distribution centers. Our California members account for annual sales in excess of \$3,000,000,000 and directly employ more than 5700 workers, with combined annual payroll in excess of \$283,000,000. An additional 11,000 indirect jobs are created by CICC member companies with a combined annual payroll of some \$360,000,000. Our purpose is to provide a means for individual companies to combine their talents and resources to deal effectively with public policy issues affecting the chemical industry in California.

CICC has heretofore monitored the Cal/EPA Environmental Justice Action Plan (the "EJ Action Plan") implementation process from afar, however, in light of recent developments we now feel compelled to comment. The following are CICC's comments regarding the definition of "Multi-media Cumulative Impacts" under Cal/EPA's EJ Action Plan.

1. CICC recommends “multi-media cumulative impacts” be defined as “the adverse health risk posed by exposure to pollutants from multiple pollution sources.”

CICC supports Cal/EPA’s effort to define “multi-media cumulative impacts” under the EJ Action Plan. Clear terms allow Cal/EPA and stakeholders from various sectors of the public (including communities and businesses) to have to the same understanding of Agency policies. We recommend Cal/EPA define “multi-media cumulative impacts” as it relates to exposure to pollutants. We suggest the following definition, “Multi-media cumulative impacts means the adverse health risk posed by exposure to pollutants from multiple pollution sources.”

CICC believes this definition is appropriate for the following reasons:

- It captures the multi-media aspect by referring to “pollution sources” as opposed to merely air pollution sources or waste discharge.
- It captures the cumulative aspect (i.e., sources evaluated in the aggregate) by referring to “multiple” pollution source.
- Consistent with OEHHA’s guidance on health risk assessment, it includes (in the term “health risk”) both cancer and non-cancer (acute and chronic) risk.
- It allows consideration of the paths of exposure (air, water, food and soil) and the toxicity of the pollutants involved.
- Cal/EPA’s application of this definition would allow objective, as opposed to subjective, evaluation of what are the cumulative impacts in a community. This is critical to the development of fair and equitable programs to address cumulative impacts.
- It is consistent with Cal/EPA’s commitment to conduct cumulative impacts efforts with a “strong scientific foundation.” It will allow Cal/EPA and the BDOs to prioritize their work and focus on the health risks that pose the greatest harm.

2. CICC strongly urges the definition of “multi-media cumulative impacts” *not* include social factors (e.g., lack of health insurance, emotional stress, dilapidated housing, crime, vermin, nutrition, life style, etc.)

CICC is aware of the fact that some have suggested that the definition of “multi-media cumulative impacts” should include social factors, such as those included in a draft report by a working group to the National Environmental Justice Advisory Council (NEJAC). That draft report’s suggests some 45 varied factors ranging from lack of health insurance, emotional stress, dilapidated housing, crime, vermin, nutrition, etc. CICC recognizes that many people in communities across California try to cope with these and other major

social problems every day. However, *environmental policies and related regulatory programs cannot be expected, nor should they be required, to resolve broader social issues.*

Including social factors in the scope of “multi-media cumulative impacts” would suggest that Cal/EPA could somehow resolve those types of issues. While they are issues that present serious concerns for a community, they are issues that are beyond Cal/EPA’s jurisdiction and are beyond Cal/EPA’s capacity to resolve.

CICC strongly urges social factors not be included in the definition of “multi-media cumulative impacts” for the following additional reasons:

- OEHHA’s guidance already takes into account populations with high vulnerability.
- CICC is not aware of peer-reviewed data and methodologies to support inclusion of these social factors in a definition of “multi-media cumulative impacts.”
- Analyses of multi-media cumulative health impacts need to be objective and science-based – not based on speculation. Allowing consideration of an undefined host of factors that cannot be quantified would lead to arbitrary decisions.

Closing Comments

CICC’s suggested definition of “multi-media cumulative impacts” covers the “**scope**” of multi-media cumulative impacts (i.e., what is included in that term) but not the determination of how the Agency would decide if there is a cumulative impacts problem.

Cal/EPA has undertaken a huge technical and policy challenge in the area of cumulative impacts by examining cumulative impacts on a multi-media basis. Cal/EPA is adding additional confounding factors to an already challenging area of analyzing cumulative impacts for an individual environmental medium. Cal/EPA’s work of analyzing and addressing pollution on a cumulative and multi-media basis should focus on the pollution Californians are exposed to from multiple sources, and the health risk, if any, posed by that exposure.

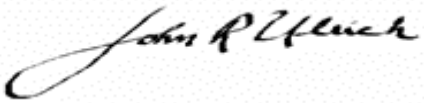
On average CICC member companies responding to a 2004 survey have each operated facilities in California for more than 58 year. These companies generally report that their plants are in excellent working order and a number of respondents report their CA operation “set the bar” when it comes to quality, efficiency, and environmental performance. Still these facilities are under tremendous pressures from externalities. . Thirty-eight (38%) of the respondents report having closed or relocated one or more of their California facilities, while 40% indicate they are considering similar moves. Fifty percent (50%) of CICC member companies have eliminated jobs in past 2 years in order to remain competitive.

Still some stakeholders have suggested that no new permits be issued in areas where high cumulative impacts are suspected. Others have suggested buffer zones be applied in suspect areas. For these reasons it makes it all the more important to the CICC that there be an objective, science-based definition of the term “multi-media cumulative impacts” and associated well-thought out policies for evaluating whether a geographical area has disparate health risk associated with exposure to environmental pollutants.

Defining multi-media cumulative impacts; inventorying current science-based cumulative impact studies, protocols and tools; determining where gaps exist in current methodologies; and then filling the gaps with new science-based protocols and tools is an enormous undertaking. It is, however, critical to the objective, and science-based evaluation of “multi-media cumulative impacts.”

The Chemical Industry Council appreciates the opportunity to comment on this matter and looks forward to becoming a more active participant in discussions with Cal/EPA, OEHHA and other stakeholders. If you have any questions or require further clarification of the above, please contact John Ulrich (916) 989-9692 or e-mail jrulrich@comcast.net.

Sincerely,

A handwritten signature in black ink, reading "John R. Ulrich". The signature is fluid and cursive, with a large initial "J" and "U".

John R. Ulrich, Sr. Consultant
Representing the Chemical Industry Council of CA

cc: Terry Tamminen, Cabinet Secretary, Office of the Governor
James Branham, Undersecretary Cal/EPA
Joan Denton, Director OEHHA
L. William Hegland, General Manager CICC